

TTAB

UNITED STATES PATENT AND TRADEMARK OFFICE  
Trademark Trial and Appeal Board  
P.O. Box 1451  
Alexandria, VA 22313-1451

eSpeedient Systems, LLC  
225 West Huron, Suite 217  
Chicago, IL 60610

Mailed: December 20, 2006

Cancellation No. 92046796  
Reg. No. 2912657

GEORGES NAHITCHEVANSKY  
KILPATRICK STOCKTON LLP  
31 W. 52ND STREET,  
NEW YORK, NY 10019

eSpeed, Inc.

V.

eSpeedient Systems, LLC

Amy Matelski, Paralegal Specialist

A petition, a copy of which is attached, has been filed to cancel the above-identified registration.

Proceedings will be conducted in accordance with the Trademark Rules of Practice.

**ANSWER IS DUE FORTY DAYS** after the mailing date hereof. (See Trademark Rule 2.196 for expiration date falling on Saturday, Sunday or a holiday).

Proceedings will be conducted in accordance with the Trademark Rules of Practice, set forth in Title 37, part 2, of the Code of Federal Regulations. The parties are reminded of the recent amendments to the Trademark Rules that affect the rules of practice before the TTAB. See Rules of Practice for Trademark-Related Filings Under the Madrid Protocol Implementation Act, 68 Fed. R. 55,748 (September 26, 2003) (effective November 2, 2003); Reorganization of Correspondence and Other Provisions, 68 Fed. Reg. 48,286 (August 13, 2003) (effective September 12, 2003). Notices concerning the rules changes, as well as the Trademark Trial and Appeal Board Manual of Procedure (TBMP), are available at [www.uspto.gov/web/offices/dcom/ttab/](http://www.uspto.gov/web/offices/dcom/ttab/).

The parties are particularly referred to Trademark Rule 2.126 pertaining to the form of submissions. Paper submissions, including but not limited to exhibits and depositions, not filed in accordance with Trademark Rule 2.126 may not be given consideration or entered into the case file.



03-23-2007

U.S. Patent & TMO/TM Mail Rcpt Dt. #72

**Discovery and testimony periods are set as follows:**

Discovery period to open: 1/9/07

Discovery period to close: 7/8/07

30-day testimony period for party  
in position of plaintiff to close: 10/6/07

30-day testimony period for party  
in position of defendant to close: 12/5/07

15-day rebuttal testimony period  
for plaintiff to close: 1/19/08

A party must serve on the adverse party a copy of the transcript of any testimony taken during the party's testimony period, together with copies of documentary exhibits, within 30 days after completion of the taking of such testimony. See Trademark Rule 2.125.

Briefs shall be filed in accordance with Trademark Rule 2.128(a) and (b). An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129.

**NOTE:** The Board allows parties to utilize telephone conferences to discuss or resolve many interlocutory matters that arise in inter partes cases. See the *Official Gazette* notice titled "Permanent Expansion of Telephone Conferencing on Interlocutory Matters in Inter Partes Cases Before the Trademark Trial and Appeal Board," 1235 TMOG 68 (June 20, 2000). The notice is available at <http://www.uspto.gov>. Interlocutory matters which the Board agrees to discuss or decide by phone conference may be decided adversely to any party which fails to participate.

If the parties to this proceeding are also parties to other Board proceedings involving related marks or, during the pendency of this proceeding, they become parties to such proceedings, they should notify the Board immediately, so that the Board can consider consolidation of proceedings.

**New Developments at the Trademark Trial and Appeal Board**

TTAB forms for electronic filing of extensions of time to oppose, notices of opposition, and inter partes filings are now available at <http://estta.uspto.gov>. Images of TTAB proceeding files can be viewed using TTABVue at <http://ttabvue.uspto.gov>.

ESTTA Tracking number: **ESTTA115626**

Filing date: **12/19/2006**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

**Petition for Cancellation**

Notice is hereby given that the following party requests to cancel indicated registration.

**Petitioner Information**

Name	eSpeed, Inc.		
Entity	Corporation	Citizenship	Delaware
Address	110 East 59th Street New York, NY 10022 UNITED STATES		

Attorney information	Georges Nahitchevansky Kilpatrick Stockton LLP 31 W. 52nd Street New York, NY 10019 UNITED STATES ghn@kilpatrickstockton.com Phone:212-775-8700
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**Registration Subject to Cancellation**

Registration No	2912657	Registration date	12/21/2004
Registrant	eSpeedient Systems, LLC 225 West Huron Suite 217 Chicago, IL 60610 UNITED STATES		
Goods/Services Subject to Cancellation	Class 042. First Use: 2000/12/20 , First Use In Commerce: 2001/01/03 Goods/Services: Providing a financial software system integrating a browser based account management and Customer Relationship Management system within one central database to provide banking, debit card, stored value and digital currency products in a host system or proprietary deployment system		

Attachments	Petition to Cancel eSpeedient.pdf ( 6 pages )(206818 bytes )
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Signature	/Georges Nahitchevansky/
Name	Georges Nahitchevansky
Date	12/19/2006

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 2,912,657

For the mark: ESPEEDIENT SYSTEMS

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ESPEED, INC.,	:	
	:	Cancellation No.
Petitioner,	:	
	:	<b>PETITION TO CANCEL</b>
v.	:	
	:	
ESPEEDIENT SYSTEMS, LLC,	:	
	:	
Respondent.	:	
-----X		

eSpeed, Inc., a corporation organized and existing under the laws of the state of Delaware with a principal place of business at 110 East 59<sup>th</sup> Street, New York, New York 10022, believes that it will be damaged by the above identified registration for the trademark ESPEEDIENT SYSTEMS shown in Registration No. 2,912,657 and hereby petitions to cancel that registration.

The grounds for this cancellation are as follows:

1. eSpeed, Inc., along with its affiliates (collectively "eSpeed" or "Petitioner"), is the largest broker of U.S. government securities, and is a well-known and respected provider of U.S. and international financial brokerage services and information throughout the world. Since at least as early as January, 1999, Petitioner has continuously used and promoted the trademarks ESPEED and E-SPEED (the "ESPEED Mark") and the ESPEED trade name in connection with a wide variety of online brokerage, financial, information, technological, software, e-commerce and communication services. In particular, Petitioner uses its ESPEED Mark and trade name

for a network and internet-based communication and distribution system that provides customers with immediate access to real-time financial market information and to a global interactive electronic marketplace that enables the instantaneous trading of financial instruments and other products.

2. In addition, eSpeed uses its ESPEED Mark for its proprietary transaction software that can process millions of transactions in milliseconds and in connection with its telecommunication services to provide users with secure, point-to-point communication links for the delivery of data, the execution of transactions and access to the Internet. In total, the ESPEED service is not only a global interactive electronic trading network that can be adapted to virtually any market of any size, but a technological system that powers marketplaces for any type of tradable products.

3. Petitioner has invested a significant amount of time and effort promoting its ESPEED services and in developing goodwill associated with the ESPEED Mark and trade name. Further, Petitioner has obtained several federal registrations for its ESPEED Mark. It owns, *inter alia*, registration number 2,535,418, registered on February 5, 2002, for ESPEED for "computer software that enables trading in financial instruments, provides trade execution and trade confirmation capabilities, and provides access to financial information and financial market information, real time and otherwise" in International Class 9, "telecommunications services, namely, electronic transmission of data via computer terminals" in International Class 38, and for a variety of financial services in International Class 36, including, *inter alia*, "providing a trading network via an electronic private intranet network and global computer network" and "providing information relating to financial instruments, brokerage, trading investments, companies,

and financial markets through a global computer network.” Petitioner is also the owner of registration number 2,500,080, registered October 23, 2001, for ESPEED (stylized) for “telecommunication services, namely, electronic transmission of data; leasing telecommunications equipment and telecommunications lines; providing telecommunications connection to the global computer network” in International Class 38.

4. In addition, Petitioner also owns stylized registrations for ESPEED, including registration number 2,729,582, registered June 24, 2003, for “Computer software that enables trading in financial instruments, provides trade execution and trade confirmation capabilities, and provides access to financial information and financial market information, real time and otherwise,” and registration number 2,484,458, registered September 4, 2001, for ESPEED (stylized) for “providing multiple-user access to a global computer information network and providing electronic mail services” in International Class 38.

5. Petitioner is also the owner of registration number 2,424,609, registered January 30, 2001, for E-SPEED for “brokerage services for transacting financial securities via a global computer network” in International Class 36. This registration has become incontestable pursuant to Section 15 of the Lanham Act, 15 U.S.C. § 1065, and, as such, is conclusive evidence of the validity of the mark, of Petitioner’s exclusive ownership of the mark and of its right to the exclusive use of the mark.

6. Petitioner has offered and continues to offer and make available its ESPEED and E-SPEED services to consumers and the trade online through the Internet and through a proprietary electronic network.

7. As a result of Petitioner's usage and promotion of its ESPEED Mark, a very valuable and inestimable goodwill has been built up in the ESPEED Mark.

8. On December 21, 2004, a date well after Petitioner first used the ESPEED Mark, eSpeedient Systems, LLC ("Respondent") obtained a registration for the mark ESPEEDIENT SYSTEMS, Registration No. 2,912,657, for "providing a financial system integrating a browser based account management and customer relationship management system within one central database to provide banking, debit card, stored value and digital currency products in a host system or proprietary deployment system" in International Class 42. Respondent claimed a date of first use in commerce of January 3, 2001, a date well after Petitioner had first used the ESPEED Mark.

9. Respondent has promoted and sold its ESPEEDIENT SYSTEMS products and/or services to financial services firms and/or to businesses, consumers and/or users in the financial services field.

10. Respondent's ESPEEDIENT SYSTEMS mark, the dominant component of which is ESPEED, is identical to Petitioner's ESPEED Mark. Further, the ESPEEDIENT portion of Respondent's ESPEEDIENT SYSTEMS mark is confusingly similar in sound to Petitioner's ESPEED Mark. With regard to commercial meaning, the ESPEEDIENT SYSTEMS mark is virtually indistinguishable from the ESPEED Mark, particularly as the mere addition of the word "Systems," and/or the suffix "ient," does not distinguish the mark in any meaningful way. Moreover, the goods and/or services described in Respondent's registration are closely related or similar to those offered by Petitioner under its ESPEED Mark.

11. The continued registration by Respondent of the mark ESPEEDIENT SYSTEMS, the overall commercial impression of which is similar to Petitioner's ESPEED Mark, used on goods and services closely related or similar to the goods and/or services of Petitioner, is likely to cause confusion or to cause mistake, or to deceive, and will tend to damage Petitioner's goodwill in its ESPEED Mark. Respondent's continued registration and use of the ESPEEDIENT SYSTEMS mark will cause the public to believe mistakenly that Respondent's goods and/or services originate with, or are approved or licensed by Petitioner, or are otherwise connected or associated with Petitioner or Petitioner's goods and services in violation of Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

12. Petitioner is and will be irreparably damaged by the continued registration of the mark ESPEEDIENT SYSTEMS in Class 42 based on its prior use of the ESPEED Mark.

WHEREFORE, Petitioner requests that Registration No. 2,912,657 be canceled.

The cancellation fee in the amount of \$300.00 for a cancellation in one class is filed herewith. If for any reason this amount is insufficient, it is requested that



Petitioner's attorneys' Deposit Account No. 11-0860 be charged with any deficiency.

This paper is filed electronically.

Dated: New York, New York  
December 19, 2006

Respectfully submitted,

KILPATRICK STOCKTON LLP

By: 

Georges Nahitchevansky

Attorneys for Petitioner  
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New York, New York 10019  
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**CERTIFICATE OF TRANSMITTAL**

I hereby certify that a true copy of the foregoing PETITION TO CANCEL is being filed electronically with the TTAB via ESTTA on this day, December 19, 2006.



Georges Nahitchevansky

**United States Patent and Trademark Office**

Commissioner for Trademarks

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JUN 10 2009

